



The Az POST

Newsletter

Arizona Peace Officer Standards and Training Board

Summer 2008

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Meet your Arizona POST Board

Lee Ann Dobbertin



The Newsletter would like to introduce POST Board member, Detective Lee Ann Dobbertin. Lee Ann was appointed by Governor Janet Napolitano on November 30, 2007, to fill the law enforcement officer position on the Board.

Lee Ann was born in Lansing, Michigan. Her family relocated to

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THE "FEASANCE" TRIPLETS

Among the POST disciplinary rules is a provision that the Board may deny, suspend or revoke peace officer certification for "malfeasance, misfeasance or nonfeasance in office." A.A.C. R13-4-109(A)(8). POST is sometimes asked about particular misconduct, "which 'feasance' is it — mal, mis, or non?"

Black's Law Dictionary defines malfeasance as, "[a] wrongful or unlawful act; esp. wrongdoing or misconduct by a public official", misfeasance as, "[a] lawful act performed in a wrongful manner," and nonfeasance as, "[t]he failure to act when a duty to act existed." The Administrative Law Judges of the Office of Administrative hearings have used these definitions to determine whether officers who have come before them have violated the POST rule. The Arizona Supreme Court similarly defines the terms as follows. "Malfeasance" as a ground for removal is doing that which an officer has no authority to do, and is positively wrong or unlawful, whereas 'misfeasance' by an officer is doing in a wrongful manner that which the law authorizes or requires him to do, and 'nonfeasance' is the substantial failure to perform duty."

Holmes v. Osborn, 57 Ariz. 522, 540, 115 P.2d 775, 793 (1941).

The same instance of misconduct can and usually does constitute malfeasance, misfeasance and nonfeasance in office, all at the same time. For example, lying to internal affairs is a plainly wrongful act (malfeasance), it also constitutes the performance of the lawful act of answering questions in an investigation in a wrongful manner (misfeasance) and it is the failure to perform the required duty of truthfully answering all questions (nonfeasance). So, when asked about a particular act, "which feasance is it — mal, mis or non?" The answer is often, "Yes."



Executive Director's Message

"CLOTHES MAKE THE COP"

You don't have to look hard to notice that there have been significant changes in the appearance of Arizona law enforcement officers over the last several decades. Rank and file troopers are hitting the streets in a variety of new uniform packages ranging from shorts and polo shirts to what look like full blown SWAT uniforms. In my view the evolution in how we present ourselves to the public has had both positive and negative impacts.

On the positive side, uniforms have become safer and more comfortable. This is no small thing, particularly in

view of Arizona's harsh climate and the bundle of new tools that make up today's work kit. On the negative side, we seem to be moving more and more toward the image of a combat soldier, rather than a community oriented peace officer. Does this matter? I think it matters because the way we dress impacts the way we act.

We wear uniforms for a variety of reasons. We want the people we serve to recognize us as peace officers, and hope this recognition fosters confidence in our ability and integrity. Of equal importance, the uniform makes us highly accountable for our public conduct.

Without question the peace officer uniform must be designed to make the officer safe. Without question the uniform must be comfortable. The real task is to achieve these goals without appearing to be at war with the very people we serve. If we look like the infantry do citizens feel that they are living in a combat zone? If we look like the infantry are we likely to be more aggressive than we need to be?

As the conversation between line officers and administrators about what we should be wearing moves forward, let's not forget why we wear uniforms in the first place.

AZ POST Video Production Center

Dan Ciernia joined the AZ POST Team as the Video Production Supervisor in late June of 2007. Today the AZ POST Multi-Media Production Center is a hotbed of production activity.

The AZ POST Multi-Media Production Center facility has been upgraded to a multi-format production center with the primary acquisition and editing format being High Definition (HD). The conversion began in December and was completed in May. The studio renovation includes acoustically treated walls, a new lighting grid and studio lighting compliment complete with green screen elements necessary for producing virtual set segments. The edit suite is firmly based in the Adobe CS3 Master Collection suite of creative and production Software running on a leading edge cpu designed and built by the AZ POST IT Department. The field and studio acquisition packages are Sony HDV format.

Over the last year the AZ POST Multi-Media Production Center has produced and distributed training

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Arizona Peace Officer Standards and Training Board
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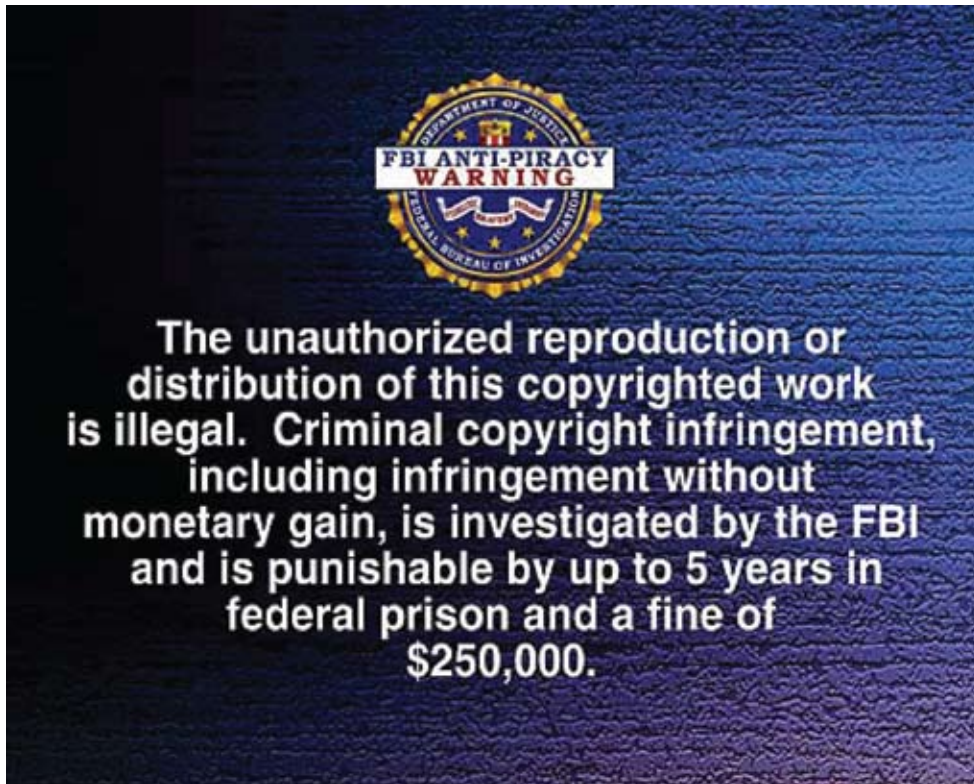
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What About Fair Use?

By Dan J.P. Ciernia, Video Production Supervisor, AZ POST



Have you ever taken the time to read the FBI Anti-Piracy Warning at the beginning of one of the movies you rent? It's a quick read that most times is quickly ignored and probably would be skipped if the DVD formatting would allow.

The thirty eight words and two numbers that make up this federal warning actually present a tremendous amount of useful information. Consider this, some scene in the movie on DVD plays out on the screen that demonstrates exactly a point that you need to present to 35 students in a training class a week from Tuesday. After the movie ends you grab the remote and search the DVD chapters to find that scene you know will grab your class' attention and solidify your teaching point in each of their absorbing minds.

With chapter 7 of your movie rental DVD identified and securely transferred to your laptop you embed

the video/audio file in your PowerPoint® presentation. You are confident the learning experience for your class has just been raised to a new level as a result of adding this dynamic scene from this copyrighted work. Then... Wait a minute, your mind begins to race, "...copyrighted work... that surely doesn't apply to me...I'm not making any money from this... what about fair use?" Great question because if you understand the Fair Use Doctrine it will help guide you in the appropriate use and handling of copyrighted materials.

Here is the one direct and unpunishable course of action that will allow you to include copyrighted material in your work, presentations and publications – obtain written authorization of use from the works copyright holder prior to including any copyrighted material in your own works. With written authorization in hand you are free to proceed accordingly. Ok, many times obtaining that permission is next to

impossible for any number of reasons. So what about fair use? To gain a better understanding of "fair use" read on.

The fair use doctrine permits use of a copyrighted work without permission for purposes of commentary, criticism, news reporting, teaching, scholarship, or research. In determining whether the use for these purposes is fair, the statute balances four factors:

1. The purpose and character of the use;
2. The nature of the copyrighted work;
3. The substantiality of the portion used; and
4. The effect on the potential market for or value of the copyrighted work.

Due to today's accessibility of content through digital means the use of copyrighted material is on the increase. But, increased accessibility does not mean that you do not need to be careful about including copyrighted material in your work. In many situations using copyrighted material without authorization from the copyright holder may constitute criminal copyright infringement even if the infringement is without monetary gain. Serious stuff for you and your agency.

Here are some guidelines in determining if your intended use of copyrighted material will be defensible as fair use. Remember, these are just guidelines:

Content owned by others is used only to the extent necessary to convey the message.

1. The use is transformative and not simply a reiteration of the content.

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programs focused on Law and Legal, Steroids, Tobacco Enforcement and Terrorism. The Center will also be releasing future programs on Sexual Assault, Redaction, Children of Incarcerated Parents, and Excited Delirium.

Dan has been on location with the Subject Matter Experts (SMEs) from both the Tactical Driver Instructors and the High Risk Vehicle Stops Instructor groups in Bullhead City, Taylor, Tucson and Phoenix acquiring footage that is being incorporated in AZ POST lesson plans.

Building on the services offered to peace officer agencies across the state, The AZ POST Multi-Media Production Center continues to provide services in CD/DVD duplication, media encoding and audio/video enhancement aiding in forensic efforts.

The AZ POST Multi-Media Production Center is a state-of the art production facility that continues to produce impactful and effective training programs through high production values and focused content.

For information please contact:

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2. The use is primarily communicative rather than commercial.
3. There is some nexus between the use and the original work.
4. The use does not significantly impact the economic interests of the rights holder.
5. The commentary relates to a matter of public interest.

If all of the six above listed elements exist in your situation, the likelihood of a First Amendment safeguard when using someone else's copyrighted material is high (notice I didn't say guaranteed). Your liability increases with the absence of one or more of these elements exposing you and your agency to possible criminal charges.

Remember, copyrights protect the "original works of authorship" that are fixed in a tangible form of expression. A tangible form does not need to be directly perceptible if it can be communicated with the aid of a machine or device. For example, you need a DVD player or computer with a DVD drive to see a film on DVD.

Copyrightable Works Include the Following Categories:

- literary works

- musical works, including any accompanying words
- dramatic works, including any accompanying music
- pantomimes and choreographic works
- pictorial, graphic, and sculptural works
- motion pictures and other audiovisual works
- sound recordings
- architectural works

These categories should be viewed broadly. For example, computer programs and most "compilations" may be registered as "literary works"; maps and architectural plans may be registered as "pictorial, graphic, and sculptural works."

For more information regarding the use of copyrighted material you can visit these websites:

<http://www.copyright.gov/>,

<http://www.copyright.gov/fls/fl102.html>

Southern Arizona Law Enforcement Training Center (SALETC)

This article continues with what we've done with past newsletter articles and that is to give you some information and insight into our fourteen law enforcement training academies. Past articles gave you information on Chandler-Gilbert, Glendale, Eastern Arizona Community College and Central Arizona Regional Law Officers Training Academy.

The SALETC 2007 Annual Report describes the facility as "a regional training center serving municipal, county and state law enforcement agencies from across Arizona. It is housed at the Tucson Public Safety Training Center, a multi-disciplined fire and police training facility. The campus is located on 115 acres in southeast Arizona."

SALETC began operations at the S. Wilmot facility in 1997. Prior to that, the Tucson Regional Academy was located on N. Silverbell. There are still many, OK maybe only a few, left of our Arizona officers that remember the Silverbell Academy, including Executive Director Tom Hammarstrom. "I was fortunate to attend an excellent ten week basic

training program at the Tucson Police Academy in 1966. Classes were held in a huge, converted, concrete sewer tank, and while this sounds worse than it really was, the academy has come a very long way. Both the facilities and the staff at SALETC are second to none."

In 2006, The SALETC User Group Steering Committee agreed to add 40 hours of Spanish for Law Enforcement, 20 hours more of Force-Resistance Training and scenario based training. The total number of training hours is now 680 hours (17 weeks).

During the last four years (2004-2008), SALETC has graduated 578 officers from 34 different Arizona agencies. Within these numbers are 39 graduates who are second generation of law enforcement personnel. SALETC Class 08-1 graduated on June 5, 2008, and included Tucson PD's Chief of Police Richard Miranda's nephew Alberto Moreno. Coincidentally, this class was Chief Miranda's final graduation, due to his retirement. Chief Miranda pinned the badge on Officer Moreno at his graduation.



AZ POST BOARD MEETINGS For the remainder of 2008

SEPTEMBER

10:00 a.m.

September 17 at AZ POST
Regular and Charging Board

OCTOBER

10:00 a.m.

October 15 at AZ POST
Charging Board Meeting

NOVEMBER

10:00 a.m.

November 19 at AZ POST
Regular and Charging Board

DECEMBER

10:00 a.m.

December 17 at AZ POST
Charging Board Meeting

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Tucson when she was five years old. She grew up and still lives in Tucson.

Lee Ann began her law enforcement career with the Pima County Sheriff's Department in September 1979. She is still with the Pima County Sheriff's Department and is currently assigned to the Internal Affairs Unit.

She has two children. 21-year old Stephen is a deputy with the Pima County Sheriff's Department, and 20-year old Lauren is an insurance underwriter.

A true fan of the ocean, in her spare time Lee Ann enjoys snorkeling and diving. She also has participated in several half marathons in the past two years.

AZ POST Recognition Awards

The 28th Annual Law Enforcement Pow Wow was held in Flagstaff, Arizona the week of July 15-18, 2008. The POST Board meeting was held on July 16, in conjunction with the Pow Wow.

Historically at its annual meeting, POST likes to recognize individuals who have provided outstanding service to the Board and to recognize POST employees for an outstanding job they have done. Those individuals recognized were:

Recently retired Officer Fred Cushman from the Tucson Police Department was recognized for his contributions to Arizona Peace Officer training as the chairman of the Patrol Procedures Subject Matter Expert (SME) Committee for the last ten years.



Sergeant John Hutchison from the Yavapai County Sheriff's Office was recognized for his contributions to Arizona Peace Officer training since 1997 as the co-chairman of the Defensive Tactics SME Committee.



Officer Mark Zbojnowicz (Sponge) from the Tucson Police Department was recognized for his outstanding service while assigned to POST. Sponge came to POST as a contract employee in 2004 and was assigned to the POST Training Unit. During his time at POST, Sponge has worked in the areas of Defensive Tactics, Use of Force, and Winning Mind Training. He has also been the chairman of the Defensive Tactics SME Committee since 1997.



Officer Harry Atkins from the Mesa Police Department was recognized for his exceptional performance. Harry came to POST in 2005 as a contract employee and is also assigned to the Training Unit. During the last fiscal year, he was instrumental in coordinating and providing firearms training to the Maricopa County College District officers who were recently authorized by the Arizona Legislature to carry firearms.



AZ POST Recognition Awards continued

Three POST employees were recognized by Director Hammarstrom for their exceptional performance during the last fiscal year; Mr. Gary Maschner, Compliance Specialist, Ms. Sandy Sierra, Administrative Services Officer and Mr. Rick Watling, Law Enforcement Training Supervisor.



Introducing Dan Ciernia:

Dan Ciernia came on board on July 21, 2007, as our first ever Video Production Supervisor. Dan was born and raised in the Minneapolis, Minnesota area. "The land of 10,000 lakes; where everybody has a lake in the back yard – we were no exception."

As a kid, Dan would watch golf coverage of golf events in the Southwest and NFL games in San Diego in the middle of a Minnesota winter and thought that it would be really neat to live here, but never thought he actually would be able to.

Dan and his wife Felice have been married for almost 23 years. They moved here in 1993 from Colorado Springs, CO. He was the Technical Services/Program Operations Supervisor for PBS Television Network's Western Region (all stations west of the Mississippi including Hawaii and Alaska). They attended a week long PBS programming meeting at "The Buttes" in Tempe in March of 93' – the Regional President that he reported to invited Felice and him to stay the rest of the week and enjoy the Valley of the Sun before returning

to Colorado – that weekend they decided that they were moving to the Phoenix area. They sold their home in 8 days and were establishing their valley residence 6 weeks later.

Dan states he has been a Network Television Gypsy for most of his professional life moving from town to town, living out of suit cases, traveling the world and always looking forward to when he would have the next extended stay at home. His career has afforded him and Felice to visit many parts of the world while working with and for CBS, NBC, ABC, ESPN, HBO, Showtime, FOX, MTV, VH-1, CNN, and many others producing sports, entertainment, news, training and marketing programs.

Whenever his busy schedule allows, Dan and Felice like to travel. He also loves a good rock show (he has a number of friends in the music industry so his calendar includes a number of concerts throughout the year) and he loves to golf, but doesn't get to pick up the sticks nearly enough these days.

The AZ POST Mobile Driver Simulator Training Program brings the training to you!



Scheduling the Simulator

Visit www.azpost.gov and follow the links to the Driver Simulator pages to schedule the mobile driver simulator at your agency.



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